

DEAV2003/0001 US NP
Application No. 10/751,600

PATENT

Remarks/Arguments

Upon entry of the foregoing amendments, claims 1 to 3, and 5 will be pending in the present patent application. Claims 1 to 3 have been amended, without prejudice. Claims 4 and 6 to 11 have been withdrawn, without prejudice to their presentation in a later-filed divisional application.

In the specification, paragraphs [0009], [0058], [0070], [0071], [0097], [0101], [0105], [0106], [0107], [0108], [0109], [0110], [0111], [0112], [0113], [0114], [0115], [0116], [0118], [0119], [0120], [0121], [0122], [0123], [0124], [0125], [0126], [0127], [0128], [0129], [0130], [0142], [0143], [0144], [0145], [0146], [0147], [0149], [0150], [0151], [0154], [0160], [0162], [0164], [0166], [0167] and [0173] have been amended to correct typographical errors and for clarification.

In view of the foregoing amendments and the following remarks, reconsideration and withdrawal of the objections and rejections are respectfully requested.

Restriction Requirement

The Action restricted the claims of the present invention to three groups, namely: Group I, which includes Claims 1 to 3 and 5; Group II, which includes Claim 4; and Group III, which includes Claims 6 to 11. Applicants hereby confirm the election without traverse via telephone on July 6 and 7, 2005 of the claims of Group I. Applicants also hereby confirm the election without traverse of the species of the claims of Group I as detailed in Example 24 on page 38, line 6.

Applicants request respectfully that, upon identification of allowable subject matter of the product claims, the non-elected method of use claims commensurate in scope with the allowed product claims be rejoined in accordance with MPEP § 821.04. If such should occur,

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Applicants request the opportunity to further amend the rejoined method claims prior to their examination.

Discussion of the Claim Objections

Claims 1 to 3 have been objected to as allegedly containing certain informalities (Action at 16 to 17). Claim 1 has also been objected to as allegedly containing features that render the claim unclear and ambiguous (Id. at 16). Applicants submit, however, that the foregoing amendments have rendered the objections moot.

Accordingly, reconsideration and withdrawal of the objections are respectfully requested.¹

Discussion of the Rejection under 35 U.S.C. § 102(b)

Claim 1 has been rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Nuhrich and Moulines, "Cyclisation de N-Tosyl Oxiranes-Propylamines: Synthèse D'Heterocycles Azotes", Tetrahedron, 47(18-19):3075-3088 (1991) (hereinafter "Nuhrich and Moulines"). Applicants submit that the foregoing amendment to claim 1 disclaiming the compound cited by the Examiner renders this rejection moot. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Discussion of the Rejection under 35 U.S.C. § 102(e)(2)

Claim 1 has been rejected under 35 U.S.C. § 102(e)(2) as being allegedly anticipated by U.S. Patent No. 6,855,708 to Lin et al. (hereinafter "the '708 patent"). In the first instance, Applicants do not concede that the '708 patent is prior art to the invention as now claimed, and Applicants hereby reserve the right to swear behind this patent if necessary.

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Notwithstanding, Applicants submit that the foregoing amendment to claim 1 disclaiming the compound cited by the Examiner renders this rejection moot. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

1 Applicants note the objections to Claim 4. Applicants, however, wish to defer addressing such objections until the claim is rejoined.

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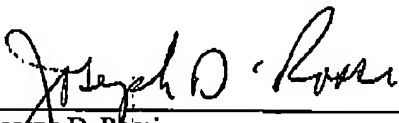
Conclusion

Applicants respectfully submit that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are respectfully requested. If there are any issues that can be resolved by a telephone conference or an Examiner's amendment, the Examiner is invited to call the undersigned attorney at (908) 231-3410.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,

Dated: November 30, 2005



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